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C O N F I D E N T I A L KABUL 000645

SIPDIS

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TAGS: [KDEM](#) [PREL](#) [PGOV](#) [AF](#)

SUBJECT: "EMERGENCY" PRESIDENTIAL DECREE AMENDS ELECTORAL
LAW

REF: A. KABUL 576

[1](#)B. KABUL 577

[1](#)C. KABUL 606

Classified By: A/Ambassador Joseph A. Mussomeli for Reasons 1.4 b,d

[1](#)1. (C) On February 17 President Karzai signed a Presidential decree enacting sweeping reforms to the 2005 electoral law. It was sent to the Ministry of Justice (MOJ) on February 18 for review and gazetting. The exact text of the reforms was only available to Karzai's Cabinet and members of Parliament (we obtained a Dari copy of the final version, previous versions have been translated and circulated but changes have occurred which we are still analyzing). On February 20 Karzai delivered a speech to Parliament at the commencement of their new session and said that he had made changes in the electoral law to remove internationals and thereby prevent further interference.

[1](#)2. (C) Mirwais Yaseni, First Deputy Speaker of the Lower House of Parliament, spoke privately with PolCouns on February 19 and said that Parliament had the decree and could either accept or reject it but not amend it, according to the Constitutional prohibition against Parliament addressing electoral issues in their own election year. This interpretation is contested, including by Minister of Finance Zakhilwal, who told us that the Parliament has no choice but to accept the changes. Yaseni said that if they reject the entire decree they can then tell the President what changes he would need to make to get Parliamentary acceptance. He said that Parliament will review the decree line by line now that they have returned to session. So far though, Yaseni is the only one we have spoken with who expects Parliament to take up the decree as part of its legislative business.

[1](#)3. (SBU) On initial review, the primary changes that we are aware of include eliminating international Commissioners from the Electoral Complaints Commission (ECC); clarification of seats for nomads in the Lower House of Parliament, Provincial Councils, District Councils, and Village Councils (Note: this had been one of the most contentious issues preventing Parliament from amending the Electoral Law on its own in [1](#)2008. End Note); allowing the Independent Election Commission (IEC) to permit voting without voter registration cards; eliminating the previous international role in the candidate vetting process; and creating a Provincial ECC system that does not answer to ECC headquarters in Kabul but instead acts like a court of first instance for electoral complaints.

[1](#)4. (SBU) While we have known that this was coming for some time (reftels) the decree was written behind closed doors and voted on secretly by the Cabinet on February 13. Once the decree reached the Ministry of Justice (MOJ), it was kept close hold. MOJ contacts called it an "unusually secret document" that even they could not access. The Afghan Independent Human Rights Commission, despite being tasked with numerous responsibilities in the decree, has been unable

to get an accurate copy of the law.
Eikenberry